325

SUPREME COURT OF THE UNITED STATES.

No. 122.

HENRY DALTON, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 331—*Henry Dalton, claimant,* vs. *The United States, defendant—for the place named "San Francisquito."*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this tenth day of September, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Henry Dalton, for the place named "San Francisquito," was presented and ordered to be filed and docketed with No. 331, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition, the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 21st and 22d,* 1852.

In case No. 331, Henry Dalton, for the place named "San Francisquito," the deposition of Manuel Requena, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with annexed document, marked No. 1, was filed, and is in the words and figures as follows, to wit:

(Vide page 4 of this Transcript.)

LOS ANGELES, *October 8th,* 1852.

In case No. 331, Henry Dalton, for the place named "San Francisquito," the deposition of Juan N. Alvarado, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide page 6 of this Transcript.)

LOS ANGELES, *October 11th,* 1852.

In case No. 331, Henry Dalton, for the place named "San Francisquito," the counsel for the claimant moved to place this case upon the trial docket. Motion taken under advisement.

SAN FRANCISCO, *February 28th,* 1853.

On motion of the United States associate law agent, it was ordered, that case No. 331, Henry Dalton, for the place named San Francisquito, be placed on the trial docket.

SAN FRANCISCO, *April 11th*, 1853.

In case No. 331, Henry Dalton, for the place named "San Francisquito," Commissioner Hiland Hall delivered the opinion and the decree of final confirmation; which opinion and decree are in the words and figures as follows, to wit:

(Vide page 36 of this Transcript.)

LOS ANGELES, *Sept. 22d*, 1852.

In case No. 331, Henry Dalton, for the place named "San Francisquito," the depo. of Antonio Franco Coronel was taken before Com'r Hiland Hall, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Petition.

To the Hon. the Board of U. S. Land Commissioners appointed to settle private land claims in California:

The petition of Henry Dalton respectfully showeth, that he is the claimant of the rancho of San Francisco, consisting of two leagues of land in Los Angeles county, a little more or less, contained within the boundaries shown on the plan or map accompanying the papers herewith filed and described as follows: Commencing at the intersection of a dry creek with the road to Sta. Anita, at a point marked A in said map; thence E. 34° S., 5,670 varas, to the point B; thence N. 37° E., 2,500 varas, to a scycamore tree (alviso) marked C, and branded with petitioner's brand and two others; thence W. 29° S., 3,890 varas, to point D on the bank of the river San Gabriel; thence following the same in its windings (direct course S. 23° 30′ W., 6,980 varas,) to the point E; thence along the Puente road (straight course W. 22° N., 7,810 varas,) to the point of meeting of the old and new Puente roads, marked F; thence north 5,635 varas to the place of beginning. That the same was granted to your petitioner by Governor Pio Pico, on the 26th day of May, A. D. 1845, by virtue of the colonization laws of Aug. 18th, 1824, the instructions and regulations of November 21st, 1828, and the various laws of Mexico, and the customs of the country affecting grants of land in California.

Your petitioner further showeth, that on or about the 14th day of February, A. D. 1846, he solicited from the proper judicial officer possession of said land, and that judicial possession was accordingly given to your petitioner by Juan Gallardo, first alcalde and judge of first instance of said Los Angeles district, as by reference to said proceedings, copies of which are herewith filed, will more fully appear.

Said lands have been surveyed, and there is no conflicting claim to it known to your petitioner. The evidence upon which he relies are the records of this grant in the office of the U. S. surveyor general, original papers, copies of which are herewith filed, and to which your petitioner craves leave to refer as part of this petition, and the testimony of the witnesses to be produced before your hon. board.

Respectfully submitted for such action as the justice and nature of the claim may require.

E. O. CROSBY,
of Counsel for Claimant.

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Man'l Requena.

OFFICE OF THE BOARD OF COMMISSIONRS OF CALIFORNIA LAND CLAIMS, *Los Angeles, Sept. 21st*, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, came Manuel Requena, a witness produced in behalf of the claimant, Henry Dalton, whose petition is No. 331 on the docket of the board, and was duly sworn. His evidence being given in the Spanish tongue, was interpreted by the secretary.

The U. S. law agent was notified and attended.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Manuel Requena; my age is fifty-one years, and I reside in the city of Los Angeles, where I have resided for the last eighteen years.

I am acquainted with the handwriting and signatures of Pio Pico, Juan Bandini, Juan Gallardo, Ignacio Coronel, and Luis Tordan.

Their names appearing upon a paper now shown me, purporting to be the original title paper from Governor Pico to Henry Dalton, of a tract of land in addition to two leagues known by the name of Asusa, dated May 26th, 1845, a receipt from Pio Pico, with an official copy of the record of the judicial possession of the same land, are, I have no doubt, in their handwriting and their genuine signatures; I believe the paper is genuine, and what it purports to be. The officers named in the paper held the official stations specified in the paper at the several dates, when their signatures appear to have been made; said paper is hereto attached and marked No. 1.

In answer to questions by the law agent, the witness says that he cannot tell whether the land is within ten leagues of the seacoast or not. He does not know that the land has been in the occupation of a mission, or that the claimant has occupied it. He is not acquainted with the land, having never been on it.

MANUEL REQUENA.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Sept. 21st, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Antonio Franco Coronel.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, *Los Angeles, Sept. 22d,* 1852.

On this day before Hiland Hall, one of the com'rs for ascertaining and settling private land claims in California, came Antonio Franco Coronel, a witness produced in behalf of the claimant, Henry Dalton, whose petition is No. 331 on the docket of the board, and was duly sworn; his evidence being given in the Spanish language, and interpreted by the secretary.

The law agent was notified, and attended.

In answer to questions by the counsel for the claimant, the witness testified as follows:

My name is Antonio Franco Coronel; my age is thirty-three years, and I reside at Los Angeles, and have resided here fifteen years. Paper marked No. 1, and attached to the deposition of Man'l Requena, taken on the 21st of September, 1852, being shown me, I recognise it as a paper which I saw and had in my hands at the time of the giving of the judicial possession to which it relates. I am acquainted with the handwriting of Juan Gallardo, Ignacio Coronel, and Luis Tordan, whose names are signed to said paper, and these signatures are genuine. I had it in my hands a short time after it was signed. I made the map which is attached to said paper now marked H H. It was made from an original map on file in the alcalde's office, and it was made for the purpose of being attached to, and forming a part of, the official copy of the record of the proceedings in the alcalde's office, and said original map and record should now be in the alcalde's office.

A. F. CORONEL.

Sworn and subscribed before me.

HILAND HALL, *Comm'r.*

Filed in office Sept. 22d, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Juan N. Alvarado.

OFFICE OF THE U. S. LAND COMMISSION,
Los Angeles, Oct. 8th, 1852.

On this day before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in Cal'a, came Juan N. Alvarado, a witness produced in behalf of the claimant, Henry Dalton, whose petition is No. 331 on the docket of the board, and was duly sworn; his evidence being given in the Spanish, was interpreted by the secretary.

The United States law agent was notified, and attended.

In answer to questions by the counsel for the claimant, the witness testified as follows:

My name is Juan Neponmieno Alvarado; my age is sixty-three years, and I reside in the county of Los Angeles, and am a native of

California. I am acquainted with the rancho San Francisquito, claimed by Henry Dalton, and have known said Dalton to have been in the occupancy of it about six years. He built a corral on it, I think, about five or six years ago, and had cattle or horses there since.

JUAN NEPONMIENO ALVARADO.

Sworn and subscribed before me.

HILAND HALL.

Filed in office Oct. 8th, 1852.

GEO. FISHER, *Sec'y.*

1845. [1 S. D. K.]

Espediente promovido por Don Enrique Dalton en pretension de dos Sitios de ganado mayor de las tierras de San Gabriel immediatas a Azusa.

453.

[2 S. D. K.]

Sello Cuarto, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el Departamento de las Californias pa. los años de mil ocho cientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

[Custom House Seal.] MICHELTORENA.

Ex'mo S'or Gobernador interino del Departamento:

Enrique Dalton Vecino de esta ciudad ante V. E. en la mejor forma y como mas haya lugar en derecho se presenta diciendo, qe. como trato de aumenta en cuanto sea posible el numero de ganado y otros animales en el sitio qe. ahora poseo Mamado Azusa y careciendo de localidad para mantener Sino muy poco numero, he observado qe. la mision de San Gabriel tiene un gran llano qe. colinda con la Puente Azusa Andres Duarte Santa Anita y la misma Mision sin hacer uso ninguno de d'ho Sitio.

Que tomando a consideracion las razones qe. espongo se sirva dignar mandarprevio los informés de eslito qe. me de en propiedad dos sitios de ganado mayor de d'ho llano se la parte que corresponde en lindero y en aumento de mi propio sitio de Azusa estendiendome el correspondiente titulo, protestando de presentar el diseño tan luego qe. me dan posecion.

Por tanto á V. E. pido y Suplico se digna acceder á esta mi solicitud. Es gracia qe. pido juro no ser de malicia y lo necesario, &c.

Ciudad de Nuestra Señora de los Angeles, 12 de Marzo, 1845.

ENRIQUE DALTON.

ANGELES, *Marzo* 13, *de* 1845.

Informe el Reverendo Padre Fray Tomas Estenega Mtro. de la mision de San Gabriel y pase al Ilustre Ayuntanto. de esta Ciudad pa.

qe. emita el qe. le corresponde conforme á las leyes y vuelva pa. los demas fines haciendo saber al interesado q. presente al Gobierno el correspondiente diceño.

PICO.

[3 S. D. K.]

MISION DE SAN GABRIEL, *M'zo* 26, *de* 1845.

EX'MO S'OR: El terreno qe. solicita el S. D. Enrique Dalton, es de los qe. los hijos de la mision no pueden cultivar por no tener agua y en atencion á que el S. D. Enrique, me ofrece entregar de gratificacion quinientos pesos en efectos qe. repartiré à estos pobres Indios puede V. E., si lo tiene ha bien concederle la estencion de terreno qe. denuestra el adjunto diceño qe. acompaña.

FR. THOMAS ELEUSTERIO DE ESTINAON.

[*For map see original, page* 10.]

[6 S. D. K.]

ANGELES, *Marzo* 23, *de* 1845.

Dada cuenta al il'tre ayuntam'to con la antecedente instancia, se mando posar á la comision de polisia donde estan los antecedentes para qe. informe.

V'TE SANCHEZ, *P'te.*
IGN'O CORONEL, *Sri'o.*

[7 S. D. K.]]

Muy Ilustre Ayuntamiento:

La comision de polisia paso al terreno qe. hase mension la antecedente instancia y previa citacion de colindantes á los que siendo presentes, les manifestó la comision el objeto de su sita y qe. si iba hacer la beduria del terreno conocido con el nombre de Sn. Francisco, por lo qe. procedio esta comision á la indicada veduria y bio qe. el terreno esta absolutamente baldio y sin ocupacion alguna, sugetando en consecuencia á la deliberacion de V. S. el articulo siguiente.

Concedasele el terreno qe. solicita el S'or Dn. Enrique Dalton si la superioridad lo tubiese á bien.

AEGELES, *Abril* 12, *de* 1845.

BACILIO VALDEZ.

LEONARDO COTA.

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ANG'S, *Abr'l* 14, *de* 1845.

Se dio cuenta al il'tre ayuntamiento con el dictamen qe. antecede y se aprobó acordandose se eleve á la superioridad.

V'TE SANCHEZ, *P'te,*
IG'O CORONEL, *Sri'o.*

[8 S. D. K.]

ANGELES, *Mayo* 26, *de* 1845.

Vista la peticion con qe. da principio este espediente, el informe qe. hantecede y demas diligencias practicadas se le concede en propiedad, el aumento de terreno al de qe. se le libro antes titulo y agreguese este al primer espediente pa. qe. obre los efectos correspondientes de dos sitios de ganado mayor, tomese razon en el libro respectivo y dirigase el espediente á la ex'ma asamblea departamental pa. su aprovacion Pio Pico, vocal mas antigus de la honorable asamblea, y gobernador interino del departamento de Californias, asi lo mande, decrete y firme, doy fee.

PIO PICO.
JUAN BANDINI, *S'rio.*

[9 S. D. K.]

Pio Pico, Gobernador interino del Departamento de Californias.

Por cuanto D. Enrique Dalton ha pretendido pa. su beneficio personal el aumento de terreno en la estencion de dos sitios de ganado mayor al rancho qe. actualmente posee por justo titulo conocido con el nombre de Azusa, colindante el parage pretendido con la puente, el mismo Azusa, Andres Duarte, Sta. Anita y la mision de San Gabriel, practicadas previam'te las diligencias y averiguaciones necesarias segun lo dispuesto por leyes y reglamentos, usando de las facultades qe. me son conferidas á nombre de la nacion Mejicana, he venido en consederle el terreno mencionado declarandole lo propiedad de el por las presentes letras, sugetandose á la aprovacion de la ex'ma junta departamental y á las condiciones siguientes.

1a. Podra sercarlo sin perjudicar las trabesias, caminos y servidumbres; lo disfrutará libre y esclusivamente destinandolo al uso ó vultivo qe. mas le acomode cumpliendo su ofrecimiento en favor de la comunidad, entregando la cantidad a disposicion ó orden del gob'o.

2a. Solicitará del juez respectivo qe. le de posecion juridica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondra á mas de las majoneras algunos arboles frutales ó silvestres de alguna utilidad.

3a. El terreno de qe. se hace donacion es de dos sitios de ganado mayor poco mas ó menos segun esplica el diseño qe. corre en el espediente respectivo.

4a. Si contraviniere á estas condiciones perdera su derecho al terreno y será denunciable pr. otro.

En consecuencia mando qe. teniendose por firme y valedero este

titulo se tome razon de el en el libro á qe. corresponde y se entregue al interesado pa. su resguardo y demas fines.

Dado en la ciudad de Los Angeles, á veinte y séis de Mayo, de mil ochocientos cuarenta y cinco.

Queda tomada razon de este titulo en el libro respectivo.

[10 S. D. K.]

ANGELES, *Mayo* 8, *de* 1845.

Dada cuenta en sesion de hay con este espediente á la E. Asamblea Departamental se mando pasar á la comision de terrenos valdios.

PIO PICO, *Pres'te.*
AGUSTIN OLVERAS, *D. S.*

Señor:

La comision dé terrenos baldios a examinado con detenimiento el presente espediente promovido por Don Enrique Dalton, del aumento de terreno en las tierras de S. Gabriel, inmediato á Azusa, qe. le fue concedido pr. el sup'r gobierno departam'e pr. lo qe. pone á la deliveracion de V. E. la prop'on siguiente.

Se aprueba la concesion hecha á Dn. Enrique Dalton de la ampliacion del terreno qe. pide nombrado Azusa segun titulo librado pr. el Gobo. Departame. en estencion de dos citios de ganado mayor e indemnizacion qe. hizo á la mision de Sn. Gabriel pa. aquella comunidad de $500, segun la condicion 1o del espresado titulo con f'ha. 8 de Mayo, de este año en conformidad con la ley de 18 de Agosto, de 1824, y reglamento de 21 de S'bre, de 1828.

Sala de Com's en la Ciudad de los Angs., Junio 9, de 1846.

S. ARGUELLO.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory or Department of Upper California, do hereby certify, that the eleven preceding and hereunto annexed pages of tracing paper, numbered from one to eleven, inclusive, and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office) at the city of San Francisco, Cal., the 27th day of August, 1852.

SAM'L D. KING,
Surv'r Gen'l, Cal.

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec.*

Translation of Fac simile Copy.—Exhibit D.

Minute of proceedings instituted upon motion of Don Enrique Dalton, petitioner for two sitios for neat cattle, being lands of San Gabriel bordering upon Azusa.

Fourth Seal, two-eighths of one dollar.

Issued provisionally by the maritime customs of the port of Monterey, in the Department of the Californias, for the years one thousand eight hundred and forty-four, and one thousand eight hundred and forty-five.

[L. S.] MICHELTORENA. PABLO DE LA GUERRA.

MOST EXCELLENT SIR: Governor ad interim of the Department, Enrique Dalton, a resident of this city, before your excellency, in the most valid form and to the full intent of the law, presents himself, saying, that I am endeavoring to increase as much as possible the number of cattle and other stock upon the premises which I now possess, called Azusa, and I lack land to raise more than a very small number. Meanwhile I have observed that the mission of San Gabriel owns a large plain, bounded by la Puente Azusa, Andres Duarte, Santa Anita, and the said mission, without making any use of such tract.

Wherefore, I pray, that taking in consideration the reasons above set forth, you will be pleased to order, after the usual reports being made, that two sitios for neat cattle be granted to me in fee on said plain next to and increase of my own tract of Azusa, and that proper grants be made to me. I promise to present the sketch as soon as I shall receive possession. Wherefore, I pray and beseech your excellency to vouchsafe this my petition. It is a favor that I crave, making oath that I don't proceed malice, and adding the other necessary verifications.

City of Our Lady of the Angels, March 12, 1845.

ENRIQUE DALTON.

(Marginal order on the above.)

ANGELES, *March 13th*, 1845.

Let the Reverend Father Fray Thomas Estenega, minister of the mission of San Gabriel, make report; then let the matter be brought before the illustrious municipal council of this city for such action as belongs to them, according to law; then let return be made for subsequent purposes, the petition being notified to present the proper design to the government.

PICO.

SAN GABRIEL MISSION, *March* 26, 1845.

YOUR EXCELLENCY: The tract solicited by Mr. Don Enrique Dalton is one of those which the children of the mission cannot cultivate, because it is deficient in water; and considering that Mr. Don Enrique offers to deliver to me as a gift, five hundred dollars in goods which I

will divide among those poor Indians, your excellency may, if so pleased, grant to him the increase of land, which the annexed sketch he encloses indicates.

BRO THER THOMAS ELEUTERION ESTENEGA.

ANGELES, *March 23d*, 1845.

On laying the foregoing petition before the illustrious municipal council, the same was referred to the committee on police, in whose hands the foregoing documents are placed, in order that it may make report.

V'TE SANCHEZ, *Prest.*
IG'NO CORONEL, *Sec.*

Most Illustrious Municipal Council:

The committee on police repaired to the tract mentioned in the foregoing petition, after summons to the neighbors, who being present were informed by the committee of the object of such summons, and that inspection was going to be made of the tract, known by the name of San Francisco; whereupon said committee proceeded to make such inspection, and saw that the tract was absolutely waste and not in any manner occupied. Wherefore, we submit to the deliberation of your honorable body the following article:

Let the tract solicited by Don Enrique Dalton be granted to him if it so please the superior government.

Angeles, April 12th, 1845.

LEONARDO COTA,
BASILIO VALDEZ.

ANGELES, *April 14th*, 1845.

Laid before the Illustrious Municipal Council the foregoing report, which was approved and further ordered to be forwarded to the superior government.

V'TE SANCHEZ, *Pres't.*
IG'NO CORONEL, *Sec.*

ANGELES, *May 26th*, 1845.

In view of the petition with which these proceedings originate the foregoing report and other papers in the cause, full ownership is granted to him of the piece of land additional to that of which title was formerly granted to him; and let this be added to the former minute of proceedings for such purposes as may be meet. Wherefore let a proper title deed be issued to him for two sitios of neat cattle; let the same be recorded in the proper book, and the minute of proceedings be forwarded to the Most Excellent Departmental Assembly for its approval.

Pio Pico, senior member of the Hon. Assembly and Governor ad interim of the Department of this Californias, has so ordered, decreed, and subscribed.

PIO PICO.

Witness my hand.

JUAN BANDINI, *Sec.*

(Here occurs the grant.)

ANGELES, *May 8th*, 1846.

Laid the within before the Most Excellent Departmental Assembly in its session of to-day, and referred to the committee on waste lands.

PIO PICO, *Pres't.*
AUGUSTIN OLVERA, *D. S.*

SIR: The committee on waste lands has examined, with deliberation, the present minute of proceedings instituted on motion of Dn. Enrique Dalton, soliciting an additional grant of certain premises of San Gabriel, bordering upon Azusa, which was granted to him by the Superior Departmental Government. Wherefore they submit to the deliberation of your excellent body the following resolution:

We approve the grant made to Don Enrique Dalton of lands additional to the tract he owns named Azusa, according to a deed of grant issued by the government, being in extent two sitios for neat cattle; also the indemnity of $500 made by him to the mission of San Gabriel for the use of that corporation, according to the first condition of the said title, dated 8th of May of this year, in conformity with the law of August 18th, 1824, and regulation of November 21, 1828.

Hall of committees at the city of Los Angeles, June 9th, 1846.

S. ARGUELLO.

I certify the foregoing to be a true and correct translation from the authenticated fac simile copy of the original Spanish document on file in the office of the U. S. surveyor general, which fac simile copy is on file in this office in case No. 331, Henry Dalton for the place named "San Francisquito."

GEO. FISHER, *Sec'y.*

Filed in office Sept. 10, 1852.

GEO. FISHER, *Sec.*

Posecion de San Francisco Azusa.—Año de 1846.

Sello Primero, Ocho Pesos.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, pa. los años de mil ochocientos cuarenta y cuatro, y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[Custom House Seal.]

Pio Pico, prima vocal de la Exma. Asamblea y Gobernador Interino, del Departam'to de las Californias.

Por cuanto D. Enrique Dalton, ha pretendido para su beneficio personal el aumento de terreno, en la estension de dos citios de ganado mayor, al rancho qe. actualmente posee por justo titulo conocido con el nombre de Azusa, colindante el parage pretendido con la puente, el mismo Azusa, Andres Duarte, Sta. Anita, y la mision de San Gabriel,

practicadas previamente las diligencias y averiguaciones necessarias segun lo dispuesto por leyes, y reglamentos usando de las facultades qe. me son conferidas á nombre de la nacion Mejicana, he venido en consederle el terreno mincionado declarandole la propiedad de el por las presentes letras, sujetandose á la aprovacion de la exma. junta departamental, y á las cindiciones siguientes.

1a. Podra serearlo sin perjudicar las trabesias, caminos y servidumbres; lo disfrutara libre y esclusivamente, destinandolo al uso o cultivo qe. mas le acomode, cumpliendo su ofrecimiento en favor de la comunidad entregando la contidad ô disposicion o orden del gobierno.

2a. Solicitará del juez respectivo qe. le de posecion juridica en virtud de este despacho por el cual se demarcarán las linderas en cuyos limites pondra a mas de las majoneras algunos arboles frutales o silvestres de alguna utilidad.

3a. El terreno de qe. se hace donacion es de dos citios de ganado mayor poco mas o menos, segun esplica el diseño qe. corre en el espediente respectivo.

4a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando qe. teniendo se por firme, y valedero este titulo se toma razon de el en el libro á qe. corresponde y se entreque al interesado para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, á veinte y seis de Mayo, de mil ochocientos cuarenta y cinco.

PIO PICO.
JUAN BANDINI, *S'rio.*

Oneda tomada razon de este superior despacho en el libro respectivo. Angeles, f'ha ut supra.

JUAN BANDINI.

Gobierno del Departamento de las Californias.

Conste qe. el s'or Don Enrique Dalton ha satisfecho á la mision de San Gabriel, la contidad de dos cientos cincuenta pesos por indemnization qe. le señalo este gobierno al concederle el terreno que espresa el antecedente titulo.

Angeles, Noviembre 29, de 1845.

PICO.

En la ciudad de Los Angeles, del departam'to de California, à los trese dias del mes de Febrero de mil ochocientos cuarenta y seis, anuente à la solicitud verbal qe. hizo Don Enrique Dalton por medio de su apoderado Dn. Hugo Reid pa. qe. se le de posecion juridica de un parage conocido con el nombre de San Francisco, y colinda con Andres Duarte, Santanita y San Gabriel, concedido por el superior gobierno departamental en veinte y seis de Mayo, de mil ochocientos cuarenta y seis, segun consta del titulo qe. presenta el apoderado: Pasese por mi y testigos y procedase á dar la posecion respectiba con arreglo al mencionado titulo. Asi yo Juan Gallardo, alcalde primero y Juez de primera instancia decreté, mandé

Corregida.

y firmé con los de asistencia segun derecho. No hay papel sellado. Juan Gallardo; asistencia Antonio Franco Coronel, asistencia Basilio Valdez. En la fecha pase oficio ó las s'res colindantes manifestandoles el que me dirijia al punto de San Francisco, con objeto de verificar las remedidas y dar la posecion qe. corresponde al s'or Don Enrique Dalton, y no habiendo manifestado ecepcion alguna, se pone por diligencia. Juan Gallardo; asistencia Antonio Franc'o Coronel, as. Basilio Valdez. Acto continuo nombre dos oficiales cordeleros qe. lo fueron Dn. Diego Sepulveda y Dn. Ignacio Reyes, á los mismos qe. al leerles su nombram'to aceptaron y ofrecieron desempeñar fiel y legalmente su encargo y no faltar al juramento prestado lo qe. pongo por diligencia qe. autorisé y firmé con los qe. supieron segun derecho. Juan Gallardo; asistencia Antonio F. Coronel, asistencia Basilio Valdez. Por ser entrada la noche se suspendieron estas diligencias. Rubrica. En catorce de Febrero, del mismo año comparecia ante mi y testigos de asistencia el agrimensor Don Gaspar Ferrel y como encargado pr. el interesado para medir el terreno y levantar el diagrama o diseño respectivo le recibi el juramento segun la forma legal de derecho por el qe. ofrecio desempeñar fiel y legalmente su oficio y cumplir con el juramento prestado firmando pa. constancia commigo y los de asistencia segun derecho. Juan Gallardo, Gaspar O. Farrell; asistencia Antonio F. Coronel, asistencia Basilio Valdez. En seguida y hallandome en el parage de San Francisco en union del agrimensor, oficiales cordeleros y testigos de asistencia hize medir un cordel constante de cincuenta varas al qe. se ataron en sus estremos unos sancas de madera q previa observation y calculo del agrimensor nos paramos en la orilla de un arroyo seco donde cruza un camino pa. el rancho de Santa Anita y lindero de este rancho segun consta en el diagrama agregado a fojas 56 (N), letra A. Se tiro el cordel rumbo E. 34° grados S., pasando pr. el roble de las tres cruzes y se midieron y contaron cinco mil seis cientos, setenta varas qe. rematarón en medio del llano letra B, donde se puso por majonera interina unos palos y mas cabezas de rez. De este punto se tiro el cordel N. 37° grados E. y se contaron dos mil quinientos varas que remataron en un aliso mojonera de los linderos de Sta. Anita y Andres Duarte en cuyos linderos comparecieron los interesados sin manifestar eception alguna; y se distingue la precitada mojonera pr. los fierros qe. tiene de los tres colindantes con inclusion del de S'or Dalton qe. tiene alli tierras de posecion mas antigua y se representa en la C. De este punto se tiro la cuerda rumbo O. 29° grados S. y se contaron tres mil ochocientos naventa varas, qe. remataron en la orilla del rio de la micion de S'n Gabriel mojonera marcada con la letra D. De este lugar se tiró una medida trabiesa pr. requerirlo asi el verdadero lindero qe. es el precitado rio de San Gabriel, marcado en el diagrama con las letras D. a. b. c. E. y resultaron por medida recta al rumbo S. 23° 30 minutos O. seis mil novecientos ochenta varas qe. espresa la linea D. E. mojonera marcada =. Deaqui y bajo el mismo orden y por permitirlo asi el camino qe. va pa. el puente el cual es virdadero lindero y se halla marcado con las letras E.

Corregida.

d. c. F. se tiró la medida recta rumbo O. 22° grados N. y resultaron siete mil ochocientos diez varas qe. concluyeron ó donde se juntan los caminos nuevo y viejo los mismos qe. van para el puente y lo demuestran las letras F. c. De este lugar se tiro otra medida oblicua por el mucho mante qe. tiene elterreno y se manifiesta en las letras e. f. y dio por linea recta el enderezar al rumbo la cantidad de cinco mil seis cientos treinta y cinco varas rumbo N. y letras F. A. qe. remataron donde dio principio la medida antes de concluir el acto pregunte al interesado si estaba satisfecho y respondiendome que si le di la posecion juridica a nombre de la nacion Mejicana, le intime pusiese sus mojoneras de cal y canto y guardase las condiciones del titulo con lo qe. se termino el acto qe. firmo commigo el agrimensor y los de asistencia segun derecho. Juan Gallardo, Gaspar O. Farrell, asistencia Antonio F. Coronel, asistencia Basilo Valdez.

Corregida.

Concuerda con su original á. qe. me remito y se halla en el protocolo de este año del qe. se sacó corregio y confronto en estos tres fojas de papel comun por falta de sellado y se agregan en la faja cuarta el diagrama.

JUAN GALLARDO.

Assa. Ig'no Coronel,
Assa. Luis Jordan.

[*For map see original, page* 26.]

Translation of Grant and Possession.—Exhibit B.

First Stamp, Eight Dollars.

Issued provisionally by the maritime customs of the port of Monterey, in the department of the Californias, for the year one thousand eight hundred and forty-five.

Micheltorena. PABLO DE LA GUERRA.

[seal.]

Pio Pico, senior member of the honorable assembly and governor ad interim of the department of the Californias.

Whereas Mr. Henry Dalton has solicited for his personal benefit the addition of two sitios for large cattle to the rancho which he actually possesses with just title, known by the name of Azusa, the tract solicited being bounded by the bridge, the said Azusa, land of Andres Duarte Santa Anita, and the mission of San Gabriel, having previously taken the necessary steps and inquiries required by the laws and regulations, using the authority conferred upon me in the name of the Mexican nation, I have concluded to grant to him said land, declaring it his property by these presents, subject to the approbation of the honorable the departmental council, and to the following conditions:

1st. He may fence it without prejudice to the crossings, highways,

and servitudes; he may enjoy it freely and exclusively, destining it to such use or cultivation as may be most convenient to him, complying with his offer in favor of the community, delivering the amount at the disposal or order of the government.

2d. He shall solicit the judge who has jurisdiction to give him judicial possession by virtue of this grant; such judge shall designate the boundaries, on the lines of which there shall be placed, besides the landmarks, some fruit trees, or wild ones of useful character.

3d. The tract hereby granted consists of two sitios for large cattle, a little more or less, as explained in the diagram which accompanies the respective documents.

4th. If he should fail to comply with these conditions he will lose his right to the land, and it may be denounced by another.

Wherefore I order that this title being held as firm, note be taken of it in the proper book, and delivered to the party in interest for his security, and other purposes.

Given at the city of Los Angeles this 26th day of May, one thousand eight hundred and five.

PIO PICO,
JUAN BANDINI, *Secretary.*

Entry has been made of this superior patent in the proper book.
JUAN BANDINI.

Angeles, dated as above.

GOVERNMENT OF THE DEPARTMENT OF THE CALIFORNIAS.

I certify that Mr. Henry Dalton has paid to the mission of San Gabriel the amount of two hundred and fifty dollars, being the amount fixed by this government to be paid by way of indemnity upon granting the land mentioned in the foregoing title. Angeles, November 29th, 1845.

PIO PICO.

In the city of Los Angeles, in the department of California, on the 13th day of the month of February, one thousand eight hundred and forty-six, in compliance with the verbal request made by Mr. Henry Dalton through his agent, Mr. Hugh Reid, that judicial possession might be given to him of the place known by the name of San Francisco, and bounded by the lands of Andres Duarte, Santa Anita, and San Gabriel, granted by the superior departmental government on the twenty-sixth day of May, one thousand eight hundred and forty-six, as appears by the title presented by the agent: Ordered that I, with my witnesses, repair to said premises and proceed to deliver possession of the same in conformity with the aforesaid title. So decreed, ordered, and subscribed by me, Juan Gallardo, first alcalde and judge in first instance, and attested according to law. There is no stamped paper.

JUAN GALLARDO.

Attest: ANTONIO F. CORONEL,
BASILIO VALDEZ.

On the same day I served a notice on the neighbors, informing them that I was going to San Francisco, with the object of causing new measurements to be made, and deliver possession of the premises in question to Mr. Henry Dalton, and they not having manifested any objection, I take note of the same.

JUAN GALLARDO.

Attest: ANTONIO F. CORONEL,
BASILIO VALDEZ.

In continuation, I appointed two line-bearers, Mr. Diego Supulveda and Mr. Ignacio Regas, who, on hearing their appointment, read, accepted, and promised to discharge their office faithfully and according to law, without violating their oath, whereof I took note, certifying and subscribing the same with those who were present according to law.

JUAN GALLARDO.

Attest: ANTONIO F. CORONEL,
BASILIO VALDEZ.

Night having arrived, these proceedings were suspended.

(A Flourish.)

On the 14th day of February, of the same year, before me and attesting witnesses, appeared Mr. Gaspar O. Farrel, the surveyor, employed by the interested party to measure the land and make a diagram of the same. I administered to him the oath in due form of law, he thereby undertaking to discharge his office faithfully and according to law, and to observe the oath he had taken.

In testimony whereof, he subscribed with me and attesting witnesses, according to law.

JUAN GALLARDO,
GASPAR O. FARREL.

Attest: ANTONIO F. CORONEL,
BASILIO VALDEZ.

In succession, and being at San Francisco, together with the surveyor, assistants, line-bearers, and attesting witnesses, I caused to be measured a line consisting of fifty varas, at the extremities of which, wooden handles were fastened. After observation and calculation of the surveyor, we placed ourselves on the edge of a dry creek at the intersection of a road to Santa Anita, this being a landmark of this farm (rancho) as appears in the diagram annexed, page 56, (N,) letter A. We ran the line E. 34° S., passing the oak tree, with three crosses, measuring and counting five thousand six hundred and seventy varas, which terminated in the midst of the plain, letter B, where we put for a provisional landmark, some sticks and bullocks' heads. From this point we ran the line N. 37 degrees E., and counted two thousand five hundred varas, which terminated at a sycamore tree, landmark of Santa Anita and Andres Duarte, at which boundary appeared the interested parties without manifesting any objection. The aforesaid landmark is

distinguished by being branded with the irons of the three neighbors, including that of Mr. Dalton, who has land there under a previous grant; this landmark being designated as C. From this point we ran the line course W. 29 degrees S., and counted three thousand eight hundred and ninety varas, which terminated on the bank of the river of the mission of San Gabriel, landmarked distinguished by the letter D. From this place we were compelled to let our measurement run a devious course on account of the said river San Gabriel, which is the true boundary, and is marked in the diagram with the letters D. a. b. c. E., and resulted in direct course S. 23° 30′ W., six thousand nine hundred and eighty varas, which is distinguished by the line D. E., landmark marked =. Thence and in the same manner the road to the bridge permitting such a course, which road is the real landmark or boundary, and is marked with the letters E. d. c. F. We ran a straight course W. 22 degrees N.; the result was seven thousand eight hundred and ten varas, which terminated at the point of meeting of the old and new roads, being those that lead to the bridge; this point is marked with the letters F. c. From this place we ran another oblique course on account of the large quantity of underwood on the land, which course is distinguished by the letters e. f. This gave on a direct line on rectifying north, five thousand six hundred and thirty-five varas, letters F. A., which terminates where we commenced the measurement.

Before closing the proceeding I asked the interested party if he was satisfied, and he answered, yes. I gave him judicial possession in the name of the Mexican nation. I intimated to him to put landmarks of stone and mortar, and observe the conditions of the title deed. Here closed the proceedings, the surveyor and attesting witnesses signing with me, according to law.

JUAN GALLARDO,
GASPAR O'FARRELL.

Attest: ANTONIO F. CORONEL,
BACILIO VALDEZ.

A true copy of the original to which I refer, on file in the book of judicial records of this year, from which this was taken, corrected and collated in these three folios of common paper, for want of the stamped; and in the fourth folio is annexed the diagram.

JUAN GALLARDO.

Attest: IGNACIO CORONEL,
LUIS JORDAN.

I hereby certify the foregoing to be a true and correct translation of the original Spanish document filed in case No. 331, Henry Dalton, for the place named Rancho San Francisquito.

GEO. FISHER, *Sec'y.*

Filed in office Sept. 10th, 1852.

GEO. FISHER, *Sec'y.*

Opinion.

No. 331.—Henry Dalton, Claimant.

The claimant, Henry Dalton, asks to have confirmed to him a tract of land of two leagues, a little more or less, in extent, called San Francisco, situated in the county of Los Angeles.

It is shown by original documents produced by the claimant, and also by official copies from the public archives, now in the office of the surveyor general of the United States for California, that a grant of the land claimed was made to the claimant by Governor Pio Pico, May 26, 1845, and that the same was approved by the departmental assembly, June 9th, 1846.

It is also shown that judicial possession of the land was given to the claimant on the 14th day of February, 1846, and that he has continued to occupy it to the present time.

No objection is made or seen to the validity of the claim. Regarding the grant as limited to two square leagues in extent, within the boundaries specified, we confirm it accordingly—Commissioner Thornton concurring in the result.

HILAND HALL.

Decree.

No. 331.—Henry Dalton, Claimant.

This board, on full consideration, having come to the conclusion that the claim is valid, now proceeds to make their decree for its final confirmation, as follows, viz:

It is decreed that the said claim be confirmed, to the extent and quantity of two square leagues, being the same land described in the grant, and of which judicial possession was given: Provided, that the said quantity of land granted and now here confirmed to the claimant be contained within the boundaries called for by said grant; and if there be less than that quantity within said bounds, then we confirm to the claimant that less quantity.

Given under our hands, this 11th day of April, 1853.

HILAND HALL,
HARRY J. THORNTON,
Comm'rs.

Filed in office April 11th, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-seven pages, numbered from 1 to 37, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the

documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 331 on the docket of the said board, wherein Henry Dalton is the claimant against the United States for the place known by the name of San Francisquito.

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-first day of June, A. D. 1854, and of the independence of the United States of America the seventy-eight.

[G. F.]

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, *Los Angeles.*

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing 38 pages, numbered from 1 to 38, both inclusive, contain a full, true, and correct copy of transcript in case No. 22, filed in my office, wherein Henry Dalton is appellee and the United States are appellants for "San Francisquito."

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, California, this 4th day of June, A. D. 1856.

[SEAL.]

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11th September, 1854.

HENRY DALTON
vs.
THE UNITED STATES.

You will please take notice that in the above case decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of June, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed November 7th, 1854.

C. E. CARR, *Clerk.*

In the District Court of the United States for the southern district of California—Los Angeles county.

HENRY DALTON ads. THE UNITED STATES. } No. 331.

To the Hon. Isaac S. K. Ogier, judge of the district court of the United States for the southern district of California:

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court in his proper person in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 10th day of September, A. D. 1852, Henry Dalton presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming two leagues of land, in the words and figures following, to wit:

"The petition of Henry Dalton respectfully showeth that he is the claimant of the rancho of San Francisco, consisting of two leagues of land, in Los Angeles county, a little more or less, contained within the boundaries shown on the plan or map accompanying the papers herewith filed, and described as follows: Commencing at the intersection of a dry creek with the road to Santa Anita, at a point marked A in said map; thence E. 34° S., 5,670 varas, to the point B; thence N. 37° E., 2,500 varas, to a sycamore tree (adviso) marked C, and branded with petitioner's brand and two others; thence W. 29° S., 3,890 varas, to point D on the bank of the river San Gabriel; thence, following the same in its windings, (direct course S. 23° 30' W., 6,980 varas,) to the point E; thence along the Puente road (straight course W. 22° N., 7,810 varas,) to the point of meeting of the old and new Puente roads marked F e; thence north 5,635 varas to the place of beginning; that the same was granted to your petitioner by Governor Pio Pico on the 26th day of May, A. D. 1845, by virtue of the colonization laws of Aug. 18th, 1824, the instructions and regulations of November 21st, 1828, and the various laws of Mexico and the customs of the country affecting grants of land in California. Your petitioner further showeth, that on or about the 14th day of February, A. D. 1846, he solicited from the proper judicial officer possession of said land, and that juridical possession was accordingly given to your petitioner by Juan Gallardo, first alcalde and judge of first instance of said Los Angeles district, as by reference to said proceedings, copies of which are herewith filed, will more fully appear. Said lands have been surveyed, and there is no conflicting claim to it known to your petitioner. The evidence upon which he relies are the records of this grant in the office of the U. S. surveyor general, original papers, copies of which are herewith filed, and to which your petitioner craves leave to refer as part of this petition, and the testimony of the witnesses to be produced

before your honorable board. Respectfully submitted for such action as the justice and nature of the claim may require."

Your petitioner further represents, that thereafter, to wit, on the 11th day of April, A. D. 1853, the said commissioners confirmed by final decree the said claim of the said Henry Dalton, in the words following, to wit: "No. 331, Henry Dalton, claimant. This board, in full consideration, having come to the conclusion that the claim is valid, now proceeds to make their decree for its final confirmation, as follows, to wit: It is decreed that the said claim be confirmed to the extent and quantity of two square leagues, being the same land described in the grant, and of which judicial possession was given: Provided that *that* the said quantity of land granted, and now here confirmed to the claimant, be contained within the boundaries called for by said grant; and if there be less than that quantity within said bounds, then we confirm to the claimant that less quantity.

Given under our hands this 11th day of April, 1853.

(Signed) HILAND HALL,
HARRY J. THORNTON, *Com'rs.*"

That thereafter, to wit, on the 27th day of June, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 331, reference to which it is prayed may be had and made a part of this petition.

That on the 30th day of June, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 331,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th day of November, A. D. 1854, the said Attorney General of the United States filed or caused to be filed on behalf of the United States a notice with the said clerk of the said district court for the southern district of California, that the appeal in said cause of Henry Dalton vs. the United States, from the decision of the said commissioners, to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this hon. court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now on appeal from said commissioners to this hon'ble court.

And your petitioner further represents, that the said claim is invalid, and said decree erroneous, on the following grounds:

1. That the said Henry Dalton shows no valid title to the said land claimed by him as aforesaid, and it is denied that he has any.

2. That the said alleged grant of Pio Pico was made in violation of the 4th article of the Colonization law of the 18th of August, A. D. 1824, in this, that the land granted, as alleged by claimant, was within ten leagues of the seacoast, there being no evidence by claimant that the supreme general executive power previously approved of the colonization of the lands of California within ten leagues of the seacoast; and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

3. That at the date of the said alleged grant, the said land, claimed as aforesaid, was occupied by the missions of California, and particularly by the mission of San Gabriel, and could not, therefore, be colonized.

4. That the said alleged grant has not the conditions required by, and is not made in entire conformity with, the law of the 18th of August, A. D. 1824, and the regulations of the 21st of November, A. D. 1828.

5. That the said claimant was, at the date of the said alleged grant, a subject of Great Britain, or was by birth a foreigner, and not a naturalized citizen of Mexico, and had not, therefore, at said time, the capacity to acquire lands under the laws of Mexico, in the manner and form as alleged.

6. That the said land granted, as alleged by Governor Pio Pico, was not vacant or abandoned at the time of the said grant.

7. That when the said petition of said Henry Dalton, of the date of the 12th of March, A. D. 1845, to said Pio Pico for said land, was presented, it did not set forth his country, profession and religion, and describe as distinctly as possible, by means of a map, the land asked for as required by law. (Article 2d of the regulations of November 21st, 1828.)

8. That the report made by the Priest Estenega, of the mission of San Gabriel, of the date of March the 26th, A. D. 1845, that "the tract solicited by Henry Dalton is one of those which the children of the mission cannot cultivate, because it is deficient in water," was then, and is now, wholly untrue. And it is alleged that the said tract, solicited by said Henry Dalton as aforesaid, was then, and is now, not deficient in water, and the said children (Indians) of said mission could then have cultivated said land; and the said report of said Priest Estenega was falsely and wilfully made, to defraud the said Indians of their just rights, and to defraud the government of the said tract of land.

9. That the said Pio Pico did not, in making the said alleged grant, proceed in exact conformity to the laws on the subject, especially the said law of the 18th of August, A. D. 1824, in this, that he did not obtain the approbation of the territorial deputation or departmental assembly of California; the paper purporting to be proceedings of the departmental assembly, dated June the 9th, A. D. 1846, and signed

S. Arguello, is not an approval or confirmation of the departmental assembly of the said grant of land. It appears to be nothing more than a report of the committee on waste lands. And the said grant of said land to said claimant never was approved by the said departmental assembly.

10. That the said alleged grant of said Pico to said claimant does not describe the land sufficiently, and it is in this respect vague and indefinite; that it does not contain the conditions required by law; that it does not designate a proportionate time within which the grantee should be bound to cultivate or occupy the land, as required by law. (Article 11 of the regulations of November 21st, 1828.)

11. That the said tract of two leagues of land granted and claimed as aforesaid was at the date of the said alleged grant, and is now, all irrigable land, and therefore the said Pio Pico exceeded his lawful authority in granting said tract of land of the extent of two leagues; that the law of the 18th of August, 1824, article 12th, prohibits the granting to, or the ownership by, one person of more than one league square of five thousand varas of irrigable land.

12. That the said alleged grant appears to have been made upon a money consideration, ($500,) or its equivalent, in favor of the said mission of San Gabriel, and the delivery of the same to the order of the government; that said grant in consideration of said price was illegal, the said Pio Pico not having at the time any lawful authority to make such a sale or disposition of the mission, or the public lands in California.

13. That the said alleged grant of said Pio Pico of said date was not a definitive grant, such as is required by the 8th article of the regulations for the colonization of the territory of the republic of Mexico, of November the 21st, 1828.

14. That at the date of said alleged grant of Pio Pico the said Henry Dalton claimed and possessed a title to a tract, or part of a tract, of land called Azusa, adjacent to the said tract of land called San Francisco, of the extent of about three leagues, and that at least one league of said tract of land called Azusa was irrigable land, and that therefore he, the said Dalton, could not obtain the ownership of more irrigable land; that the said Pio Pico then, at the date of the said grant made by him as aforesaid, knew, or ought to have known, that the said Henry Dalton had acquired by purchase the said tract, or part of a tract, of land called Azusa, adjoining the said tract of land called San Francisco, and that one league or more of the said tract of Azusa, claimed and occupied by said Dalton as aforesaid, was irrigable land, and that therefore the said Henry Dalton could not acquire the ownership of the land granted by him as alleged.

15. That there is no evidence that the said tract of land called San Francisco was ever cultivated by said claimant, or that he built a house thereon within one year from the date of the said grant, or that he occupied the land as required by law; and it is denied that he did so cultivate, improve, and occupy the said tract of land called San Francisco.

16. That the alleged act of judicial possession and survey by Juan

Gallardo, on or about the 14th of February, A. D. 1846, was not made according to the ordinance or law; that it was not made according to the said grant of said Pio Pico; that the said Juan Gallardo had no lawful authority to give judicial possession or make a survey of the said land until after issuance of and upon presentation to him by the grantee of the definitive grant, wherein it should be stated that the grant was made in exact conformity with the provisions of the law, and with the approval of the departmental assembly. Such a title the said alleged claimant did not possess, and the said alcalde without it could not lawfully give the judicial possession and survey the land as alleged.

17. That the said judicial possession, survey, and map of the said land are not given and made according to the said alleged original grant of said Pio Pico of the said date of the 26th of May, A. D. 1845, and that the same are vague and indefinite.

And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed, and said claim rejected by said commissioners upon the grounds aforesaid.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said Henry Dalton, or his attorney, may be served with a copy of this petition, and that this hon. court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Henry Dalton for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid; and all such other orders, judgments, or decrees, as may be just, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed Dec. 21st, 1854.

C. E. CARR, *Cl'k.*

Answer.

In the United States District Court of the southern district of California.

THE UNITED STATES, appellant,
vs.
HENRY DALTON, appellee.

Claim for San Francisco.—Land Commission No. 331, Docket No. 22.

And now comes the above named appellee, Henry Dalton, by his attorney, J. R. Scott, and for answer to the petition for review of the appellant filed in this case, says:

That on the 26th day of May, A. D. 1845, Pio Pico, then constitutional and acting governor of Upper California, and duly authorized

by law to make such grant, by his deed of grant of that date duly executed according to law, did grant and convey unto Henry Dalton, this appellee, the lands called San Francisco, containing two square leagues, a little more or less, which said land was duly admeasured, and juridical possession thereof given to this appellee by the competent judicial authorities of the district, wherein said lands were situate, according to law, on the 14th day of February, A. D. 1846, whereby this appellee became seized in fee simple of the lands aforesaid, as this appellee avers; that he has, from the date of the aforesaid grant, to the present time, done, performed, and fulfilled all the conditions that it was necessary by law for him to do, perform, and fulfil to perfect his title to the said lands; and that during all that time he has been in peaceable and quiet possession and occupancy of the same.

And this appellee further says, that on the 10th day of September, A. D. 1852, he filed, before the United States board of land commissioners to ascertain and settle the private land claims in California, his petition, setting forth his title and praying for a confirmation to him of the said lands by the said board, together with certain documentary evidence in support thereof.

And that afterwards, to wit, on the 21st and 22d days of September, and on the 8th day of October, 1852, he also filed before said commissioners certain depositions of witnesses in support of his claim to said lands of San Francisco, all of which petition, documentary evidence, and depositions of witnesses, together with the subsequent proceedings of said commissioners in the matter, are contained in the transcript now on file in the office of the clerk of this court, the whole of which is hereby referred to by this appellee, and made a part of this his answer.

And this appellee further states, that the said board of commissioners, after hearing the petition and proofs of this appellee, did, by their decree and decision, made April 11th, A. D. 1853, confirm said lands to this appellee.

And this appellee says he is the legal owner of said lands, and entitled to have the same confirmed to him by this honorable court, inasmuch as he has done, performed and fulfilled all things and conditions necessary to be done, performed and fulfilled, to entitle him to such confirmation, particularly by an act of the Congress of the United States, entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, 1851.

And this appellee further states, that the said lands are situate in the present county of Los Angeles, in the southern district of California, and within the jurisdiction of this honorable court, and for further answer to the petition for review filed in this case by the appellant, this appellee says that he denies all and singular, each and every allegation therein contained, except what is admitted in this his answer, and he denies that there is anything in said petition contained, either in law or in fact, to estop or prevent this honorable court from affirming the decision of said board of commissioners, and confirming to this appellee his title for the lands in this case.

And this appellee would pray the judgment of this honorable court,

that the decision of said board of commissioners may be affirmed, and that his title to the said lands of San Francisco may be confirmed, and that he may be dismissed hence with costs, and may have such other and further relief as shall be agreeable to equity and good conscience, and the nature of his case shall require.

J. R. SCOTT,
Attorny for Appellee.

Filed April 4th, 1855.

C. E. CARR, *Cl'k.*

Order to take further testimony.

In the District Court of the United States for the southern district of California—Hon. Isaac S. K. Ogier, Judge.

HENRY DALTON ads. THE UNITED STATES. } No. 22. (No. of Transcript 331.)

On motion of P. Ord, att'y of the United States for the southern district of California, it is ordered by the court, that either party may take further evidence in this cause.

P. ORD, *Att'y for U. S.*

Filed Sept. 12th, 1855.

C. E. CARR.

Deposition of J. S. Mallard.

HENRY DALTON, Appellee, ads. THE U. STATES, Appellant. } No. 22.—"San Francisquito."

J. S. Mallard, being duly sworn in the above entitled cause, this 15th day of September, A. D. 1855, on the part of the United States, testifies in open court as follows:

1st ques. What is your name, age, residence, and occupation?

Ans. My name is J. S. Mallard, residence San Gabriel; my age is 39; and a merchant by occupation.

2d ques. How long have you resided in California and in Los Angeles c'ty?

Ans. I have resided in Cal'a five years, and in Los Angeles Co. the same length of time, with the exception of four months.

3d ques. Do you know Henry Dalton, and how long have you known him?

Ans. I know him, and have known him since Jan'y, 1850, as a resident of Los Angeles c'ty.

4th ques. Do you know the rancho of San Francisquito?

Ans. I don't know that I do, only from report.

5th ques. Do you know the country of Mr. Dalton's birth?

Ans. I do not.

6th. Do you know whether or not Mr. Dalton, the appellee in this case, is a native of Mexico? and if not, state generally how you know the fact.

(Objected to by counsel for appellee, on the ground of the subject matter.)

Ans. Some time in the year 1853 I heard Mr. Dalton say that he claimed not to be a citizen of the United States nor of Mexico. I know it was in a court of justice, and think he was called as a juror, (the court reserve their decision.) I think he was under oath, but am not certain. I think it was in the court of sessions, whilst I was sitting as an associate justice; but I am not certain if it was in that court, or in a justice's court, whilst I was a judge of both courts.

7th question. Was he excused on that ground?

Ans. I think he was.

8th ques. Did you ever hear Mr. Dalton say, on any other occasion, that he was not a naturalized citizen of Mexico?

Ans. I do not recollect that I ever did.

Cross-examined by counsel for

1st ques. Did he say any thing more, than that he claimed not to be a citizen?

Ans. My answer is that he did.

2d ques. State what more was said by Mr. Dalton.

Ans. My recollection is, that he stated that, while in Mexico, he had either applied to become a citizen or had some papers made out, and that, from some reason which I do not recollect, the business of his naturalization was not completed.

3d ques. Did he not say this: that the papers had been made out in Mazatlan, but that they had not reached him?

Ans. It might have been so; but my recollection was that the action on his application had not been completed, and that, for that reason, he, Dalton, said he did not consider himself a Mexican citizen.

C. E. CARR, *Clk.*

Filed Sept. 15th, 1855.

C. E. CARR, *Clk.*

HENRY DALTON, Appellee, ads. THE UNITED STATES, Appellants. } No. 22.

Daniel Sexton sworn, and says:

1st ques. What is your name, age, place of residence, and occupation?

Ans. My name is Daniel Sexton; my age about 37; I reside in San Gabriel; I am a farmer.

2d ques. How long have you lived in California?

Ans. I have lived in this part of California, county of Los Angeles, since the fall of 1841.

3d ques. Do you know or not Henry Dalton, the appellee in this case?

Ans. I do.

4th ques. How long have you known him?

Ans. I have known him since the latter part of '44 or beginning of '45.

5th ques. Do you know how long he has resided in California?

Ans. Yes; since the latter part of '44 or beginning of '45.

6th ques. Do you know the country of his birth?

Ans. He has frequently told me he was an Englishman.

7th ques. Do you recollect the last time he told you so?

Ans. Yes, in May, I think it was, in 1847; I was coming in company with Mr. Dalton from Azusa to Santanita; he told me that he was an Englishman; that he never was a Mexican citizen, and never intended to be an American citizen.

8th ques. Do you know the tract of land in controversy in this case?

Ans. I know it perfectly well; it lies east from the mission of San Gabriel about a mile or a mile and a half from that mission.

9th ques. How long have you known it?

Ans. I have known it since 1841; there is not a year since that time that I have not travelled over it, except the year 1849.

10th ques. What was the condition of that land as to its occupation during the year 1845?

Ans. I passed by there in 1845, and there was a corral, which I understood Mr. Dalton had built; but there was no gate put to it, no fastening, and I don't think it was ever used.

11th ques. Where was the land first occupied, and by whom?

Ans. It was never occupied by Mr. Dalton nor by any person in his employ, that I know of; the first occupation was by the squatters or settlers; the first occupation was since the '48, since the gold mines were discovered; it was unoccupied when I left for the gold mines in the spring 1849, and when I returned there were people living on the land; it has been continued to be occupied up to the present time by some five or six families.

12th ques. How many claimed the land under pre-emption?

Ans. About five or six claiming under pre-emption.

13th ques. Describe the character of the land.

Ans. It is all good arable land, most of which appear to have been under cultivation by the mission.

14th ques. Was that good arable land suitable for cultivation by Indians, in the years '44, '45 and '46, and was it deficient in water at that time?

Ans. It was suitable land for Indians, and well irrigated at those periods, as the ditches show that the lands have been mostly cultivated.

15th ques. How much of that land was irrigable in those years?

Ans. The whole of it, from the waters of San Gabriel.

16th ques. Do you know the rancho of Azusa?

Ans. I do.

17th ques. Who claimed that rancho in '44 or '5?

Ans. Henry Dalton.

18th ques. Where is it?

Ans. It is on the east side of the San Gabriel river, due east from and adjacent to San Francisquito.

19th ques. Do you know about the extent of that rancho of Azusa?

Ans. I do not positively, but have understood it was three leagues.

20th ques. Do you know how much of this Azusa ranch is irrigable?

Ans. I should suppose that one-half of this ranch could be irrigated.

21st ques. From what source?

Ans. From the river San Gabriel.

22d ques. About how far is this land from the seacoast?

Ans. On a direct line, I should suppose it was about 28 miles or 25 miles.

Cross-examined by counsel for Appellee.

Ques. Previous to the year 1845 did you ever know, of your own knowledge, of any of this land being irrigated; if so, by whom?

Ans. I did not.

Ques. How do you know that it had ever been cultivated or irrigated?

Ans. By the ditches, which showed that the land had been irrigated and cultivated.

Ques. By what water did they appear to have been irrigated?

Ans. By the water of the San Gabriel and the water from the mountains.

Ques. From what place did you know the rancho of Azusa to be watered?

Ans. From the same river.

Ques. How large a tract of Azusa did you know to be irrigated?

Ans. A small tract about 20 acres, irrigated by Luis Arrenas.

Ques. How far above the ranch of San Francisquito do the waters of the San Gabriel sink in dry weather?

Ans. In dry weather the river sinks about the upper line of San Francisquito, as it runs there through a bed of sand.

Ques. Was not this ditch discontinued when you first came to the country?

Ans. It was.

Ques. Were not all the ditches leading to this San Francisquito ranch discontinued before you came to the country?

Ans. They were.

Re-examined.

Ques. When you say the ditches were discontinued, what do you mean?

Ans. That they were not used for irrigation; that there was no water running in them at that time.

Taken in open court, this 15th of Sept., 1855.

C. E. CARR, *Clerk.*

Filed Sept. 15th, 1855.

C. E. CARR, *Clerk.*

Deposition of Bernardino Guirado.

HENRY DALTON, App'ee, ads. THE UNITED STATES, App't. } No. 22.

Bernardino Guirado, sworn, says:

Ques. 1. What is your name, age, and place of residence?

Ans. Bernardino Guirado; my age 52 years and upwards; residence in the county of Los Angeles.

Ques. How long have you resided in the county of Los Angeles?

Ans. Twenty-one years.

Ques. Do you know the ranch of San Francisquito; if so, how long have you known it?

Ans. I do; I have known it for 20 years.

Ques. State anything you know about any portion of said ranch having been irrigated within that time of your own knowledge.

Ans. I never saw any part of it under irrigation.

Ques. State any knowledge you have concerning the facilities for irrigating the same, what part thereof can be irrigated, if any, and how much?

Ans. At this time I do not think any part can be irrigated, because there is no water.

Ques. State any knowledge you have of the failures of water with which that ranch might in former years have been irrigated.

Ans. I don't know.

Ques. Are you acquainted with the rancho of Azusa?

Ans. I do.

Ques. What portion of it can be irrigated?

Ans. The vineyard enclosed by Mr. Dalton, and about 600 varas below.

Ques. How many acres, more or less, can be irrigated on the ranch of Azusa?

Ans. I am not acquainted with the measurement of an acre.

Ques. Do you know the south line of San Francisquito?

Ans. Yes; it is the old road that goes from the mission to the Puente.

Ques. What road does Ira Thompson live on?

Ans. I do not know.

Ques. State whether or not, during the time you have known the rancho of San Francisquito, was there water from any source by which the same could be irrigated?

Ans. There was not.

Cross-examined by U. S. Att'y.

Ques. Do you know the boundaries of the rancho of San Francisquito; and if yea, state them?

Ans. I know the boundary line on the south, and on the side next the mission of San Gabriel, and also the boundary formed by the river San Gabriel.

Ques. Do you know the northern boundary line of the rancho San Francisquito?

Ans. I know that there is an oak tree where the line of Andres Duarte joins the ranch of San Francisquito.

Ques. Do you know the point or place on the San Gabriel river where the northern boundary line intersects the said river?

Ans. I do not know it.

Ques. Do you know the south boundary of the Andres Duarte ranch?

Ans. Yes; the oak I have mentioned.

Ques. How far is that oak from the San Gabriel river?

Ans. It is a considerable distance off, and it must be where Duarte's land ends, towards the southern corner of the line of Duarte, which comes to the north.

Ques. Do you know all the boundaries of the Azusa ranch; if yea, state them?

Ans. Yes. On the west the river of San Gabriel, on the south by the hills which are the line of the Puente from the east towards San José, on the north by a valley which, I think, is called San Dimas, and on some rocks on the mountains there is a cross.

Ques. What is the extent, or about how many leagues does the rancho of Azusa contain?

Ans. I believe four leagues and a half; but I am not positive.

Ques. Do you know where the water-dam is which supplies the water for the rancho of Azusa?

Ans. I do. It is within the ravine of the mountain, out of which comes the San G. river, around a little bend.

Ques. Do you know whether or not there are any water-dams established above that of the Azusa rancho?

Ans. I do not know that there are any.

Ques. Do you know how much water can be taken at that dam of Azusa ranch?

Ans. When the river is full all the water could not be drawn off; at this season of the year all the water could be drawn off.

Ques. What rancho bordering on the Azusa river has the first right or privilege of taking water from the same?

Ans. The ranch of Azusa.

Ques. In ordinary seasons is there not water enough at the Azusa dam to irrigate a large quantity of land?

Ans. The irrigable land is a long distance from the dam, and much water is lost in reaching it. Azusa has only a narrow strip that can be irrigated, the other portions being sandhills, covered with prickly pear and sage weed. If a good dam were built a large quantity of water could be taken.

Ques. How much land of the Azusa ranch lies below the level of that dam?

Ans. All that strip of land which I have described, perhaps, would reach one league and a half.

Ques. Is there any irrigating ditch now on the rancho of Azusa; if yea, what is its length?

Ans. I do not know.

Ques. Do you know if there is a mill upon said rancho?

Ans. Yes.

Ques. How far is that mill from the water-dam?

Ans. I do not know.

Ques. Is the mill a large or small one?

Ans. It is a large flour mill.

Ques. How much of the land of Azusa is susceptible of irrigation without regard to its quality?

Ans. I cannot tell; but it is a large quantity, below the mill.

Ques. Is it two leagues?

Ans. No; I think about 500 yards in length, and quite narrow.

Ques. Is that small piece of 500 yards in length bad or good land?

Ans. It is not good for sowing, and that is the reason it is not sown.

Re-examined.

Ques. Are there not two roads that run from the river San G. in an easterly direction; if so, how far are they apart?

Ans. There were two roads formerly, but I don't know now. The roads are apart about one league; there they go to the river, one going to the Puente and one to San José.

Re-cross-examined.

Ques. How long is it since you have seen those roads?

Ans. I think it was just a little before the American troops came here; I have not been there since.

Ques. Can water be taken from the river San G., at the point or place where the San José road from the mission of San G. crosses, so as to irrigate the lands lying to the south and southwest of the San Gabriel river?

Ans. I think not, because the river sinks.

Ques. Can it be taken at a point above and near where the road crosses; and if so, at what distance?

Ans. I cannot say.

Ques. Does not the water of San Gabriel river again at *at* point below where the road passes?

Ans. Yes, but a great distance below, where the other road crosses going to the Puente; there it begins to spring out.

Ques. About how much of the San Francisquito ranch can be cultivated in ordinary seasons so as to raise good crops of wheat and corn without irrigation?

Ans. I do not know; I have not passed there since the Americans have been cultivating the same. I know there is a great deal damp

land in that vicinity and on the ranch which would not require irrigation.

Taken in open court this 17th of Sept., 1855.

C. E. CARR, *Clerk.*

Filed Sept. 17th, 1855.

C. E. CARR, *Clerk.*

HENRY DALTON, App'ee,
vs.
THE UNITED STATES, App't. } No. 22.

Francisco Alvarado sworn, says:

Ques. 1. What is your name, age, and place of residence?

Ans. My name is Francisco Alvarado; my age 38; my residence, county of Los Angeles.

Ques. Do you know the ranch of San Francisquito?

Ans. I do.

Ques. How long have you known it?

Ans. I have known it all my life.

Ques. Did you ever know of any cultivation on that ranch; if so, how long since?

Ans. I have never known of any cultivation; I only know a corral, which I built for Dalton.

Ques. In what year did you build that corral?

Ans. In the year 1846.

Ques. Was the ranch occupied in 1846; if so, by whom, and in what manner?

Ans. It was, by Henry Dalton, with horses.

Ques. How many horses did he have on it?

Ans. I don't know; there were two droves of mares and some gentle horses.

Ques. Previous to '46 did you ever know any part of that ranch to be occupied; if so, how much?

Ans. I never saw it irrigated.

Ques. State whether or not there is any source from which that ranch could be irrigated in the year 1846?

Ans. There has been no water with which it could have been irrigated since '46.

Cross-examined.

Ques. 1. Do you know to read and write?

Ans. I do.

Ques. Where do you live at the present time?

Ans. I live at the ranch of the Cuervos.

Ques. Do you know the boundaries of San Francisquito ranch, claimed by Dalton?

Ans. I do.

Ques. Were you on that land at any time whilst Alvarado or Figueroa were governor of California?

Ans. I passed there often during that time, but cannot remember.

Ques. About that time, how many mission Indians were living on said land and cultivating it?

Ans. There were no Indians on, or cultivation of the land, that I saw.

Ques. Were the remains of the old irrigating ditches upon the ranch visible at any time, whilst Micheltorena was governor of Cal'a?

Ans. Many years before the times of these governors, I saw signs of sanjas there.

Ques. Did you see signs of cultivation also?

Ans. No.

Ques. How many years is it since you last saw the remains of those ditches?

Ans. I do not remember now, but I was very small when I first saw them in the edge of the timber, where the road goes to San Bernardino.

Ques. Have you ever seen the water running in these ditches?

Ans. No.

Ques. How far is it from the mouth of the cañon of San Gabriel, below the same where the water sinks?

Ans. I do not know.

Ques. Cannot all or nearly all of the rancho of San Francisquito be cultivated and crop grown without artificial irrigation?

Ans. I do not know, having no knowledge about these matters.

Ques. Is not the land of this ranch moist all the year round?

Ans. There is part of it timbered, that is damp.

Ques. Have not large crops of corn been raised there without irrigation in the last two or three years?

Ans. I have.

Ques. How do you know that Mr. Dalton had horses on San Francisquito in '46?

Ans. They were under my charge as mayor domo.

Ques. How long were those horses kept there on that ranch?

Ans. I do not remember.

Ques. Was it a week or month?

Ans. They were there a considerable length of time.

Ques. Where did you live at that time?

Ans. At the rancho of Azusa.

Ques. At that time, when mayor, where did you corral the horses which belonged to Mr. Dalton?

Ans. In the corral of the rancho of Azusa, and when they brought the horses to the ranch of San Francisquito they were then corralled at San Francisquito.

Ques. When you built a corral on San Francisquito, was it not a temporary one?

Ans. It was a large and good corral; it was with the object of putting a ranch of cattle there.

Ques. Did you finish that corral?

Ans. I did, and placed the mares and horses there.

Ques. Did you not leave the gate unfinished, and was not the entrance to the corral left open?

Ans. It had bars. When anything was in the bars they were up, and vice versa.

Taken in open court, Sept. 17th, 1855.

C. E. CARR, *Clerk.*

Filed Sept. 17th, 1855.

C. E. CARR, *Clerk.*

HENRY DALTON, App'ee, ads. THE UNITED STATES, App'ts. } No. 22.

Testimony of George Dalton, taken in open court.

Ques. What is your name, age, and place of residence?

Ans. George Dalton; age 49; residence Los Angeles county.

Ques. How long have you resided in California?

Ans. Four years and a half.

Ques. Do you know the ranch of San Francisquito?

Ans. I do; a part of it.

Ques. Do you know where Ira Thompson lives; if so, state how far he lives from the south line of said ranch?

Ans. I do; I believe it to be on the line or near about.

Ques. Are you acquainted with the ranch of Azusa; if so, how long, and what opportunities have you had of becoming acquainted with it?

Ans. I do, having lived on the ranch over four years.

Ques. State what quantity of that ranch can be irrigated?

Ans. On an average season I should not like to try more than one hundred acres.

Ques.

Cross-examined.

Ques. Are you a relation of the appellee in the case?

Ans. I am his brother.

Ques. Where were you born?

Ans. In London, England.

Ques. Are your parents alive?

Ans. They are not.

Ques. Is there a mill on the rancho of Azusa?

Ans. Yes.

Ques. How far is that mill below the water-dam?

Ans. About one mile.

Ques. About what is the fall of water from the water-dam to the mill?

Ans. I cannot say positively; about 18 or 16 feet.

Ques. How many barrels of flour do you make at the mill, or hundred pounds, in 24 hours?

Ans. Not over 1,500 pounds.

Ques. Do you run night and day?

Ans. I do not.

Ques. How far is that mill from the river San Gabriel, at its nearest point?

Ans. I suppose it is about one mile.

Ques. Does not the water of the river San Gabriel run very near the surface of the ground below the dam?

Ans. It does.

Ques. Is not the dam of the Azusa dam the highest dam on the river San Gabriel?

Ans. It is.

Ques. In ordinary seasons, about what quantity of water could you take from that dam?

Ans. I could take sufficient to irrigate about 100 acres.

Ques. How much of the land of Azusa lies below the level of the water-dam?

Ans. I should think one-third.

Ques. What is the average depth of the irrigating ditch which now supplies the mill with water?

Ans. From a foot to 18 inches.

Ques. Are there any deep cuts in that ditch?

Ans. Not to any extent.

(Sgd.) GEORGE DALTON.

Sworn to and subscribed before me, this 17th day of Sept., 1855.

C. E. CARR, *Clerk.*

Filed Sept. 17th, 1855.

C. E. CARR, *Clerk.*

HENRY DALTON, App'ee, ads. THE UNITED STATES, Appl't. } No. 22.

Ignacio Palomares, being sworn, says:

1st ques. What is your name, age, and place of residence?

Ans. My name is Ignacio Palomares; I live in the county; and am forty-five years of age.

2d ques. Do you know the ranch of San Francisquito; if so, how long have you known?

Ans. I do; and for many years.

3d ques. Did you ever know of any part of it being irrigated; if so, where, and how much of it?

Ans. I know that part of it has been irrigated; that was in the year 1824; and that was only a part of the land.

4th ques. State more or less, how much?

Ans. I only saw irrigation on the land, but cannot tell the quantity.

5th ques. State whether or not any of it was ever irrigated since the year 1824?

Ans. Since 1824 I have not seen any part of the land irrigated.

6th ques. State, if you know, why they ceased to irrigate it at that time?

Ans. I do not know.

7th ques. State whether or not you have any knowledge of there being a failure of water about that time with which the said place had been irrigated; if so, state all you know about it?

Ans. I only knew the fact of the land having been irrigated, but where the water came from I did not know.

Ques. How far is this land situated from the sea-shore, more or less?

Ans. I think it is about eleven leagues.

Ques. Are you acquainted with the rancho of Azusa?

Ans. I am.

Ques. How much of that can be irrigated?

Ans. I think it could all be irrigated, if there was water enough in the river.

Ques. When you say that it could all be irrigated, do you mean to say that there was water enough to irrigate it, which could be brought on it to irrigate?

Ans. I do not mean to say that there is water enough to irrigate it all, because the water often fails; nor do I mean to say that, if there were sufficient water, it could be brought over all the land.

Ques. Of the ranch of Azusa proper how much land, more or less, is there water to irrigate, that could be carried on to the land?

Ans. I cannot say, more or less, what quantity can be irrigated.

Cross-examined by counsel for U. S.

Ques. In ordinary seasons, is there not water enough in the river San Gabriel to irrigate about one half of the rancho of Azusa?

Ans. Yes; there is in ordinary seasons enough to irrigate one half—that is, a part of the rancho.

Ques. Is not the river San Gabriel one of the boundaries of the rancho of Azusa?

Ans. I do not know.

Re-examined.

Ques. When you say a part of the rancho, do you mean to say a small portion of it can be irrigated?

Ans. I wish to say that, in a very regular year, a part less than a half can be irrigated.

Ques. State whether or not any part of the ranch belonged to the ranch of San José; if so, what part of it?

Ans. Yes; a league of it formerly belonged to San José.

Ques. State whether or not any part that formerly belonged to San José can be irrigated?

Ans. No.

Ques. What proportion of the balance, which did not belong to San José, could be irrigated?

Ans. I do not know what was the balance.

Taken in open court, this 17th of Sept., 1855.

C. E. CARR, *Clerk.*

Filed Sept. 17th, 1855.

C. E. CARR, *Clerk.*

H. DALTON, App'ee,
vs.
THE UNITED STATES, App'lt. } No. 22.

George Hanson, sworn, says:

Ques. 1st. What is your name, age, place of residence, and occupation?

Ans. My name is George Hanson; 32 years; Los Angeles city; surveyor.

Ques. Do you know the ranch of San Francisquito; if so, how long have you known it?

Ans. I know it; it is about a year that I surveyed the rancho of Santa Anita, which is bounded on the southwest by San Francisquito.

Ques. How far is the ranch of San Francisquito from the seacoast?

Ans. San Francisquito is situated, as far as I can ascertain, in township one north and township one south, in range 11, and probably extends to range 10 of the San Bernardino base line of meridian. This San Bernardino base line is from 27 to 28 miles from the coast. The general course of the coast about that place is about east southeast. I do not know the boundaries of San Francisquito; but the base line of San Bernardino passes through it.

Ques. Does the base line of which you speak pass north or south of the town of Lesington?

Ans. It passes north; I do not know how far.

Ques. On which side of Mr. James's house does the base line run?

Ans. It runs right near to it; but I cannot remember whether it is north or south.

Ques. Do you know how far north of the house of Ira Thompson does this line run?

Ans. About one mile.

Ques. How many miles are there in ten Spanish leagues?

Ans. Twenty-six miles and 3 chains.

Cross-examined.

Ques. How far from the Wilson vineyard does this line run?

Ans. Very near the southern corner of it.

Ques. How far is it from the base line near the southern corner of Mr. Wilson's vineyard to the northern and western boundary of San Francisquito?

Ans. The southern boundary of Santa Anita, which is the northern boundary of San Francisquito, runs from Mr. Wilson's garden in an easterly direction about five miles to n mound in the plain and this point; the boundary lines form an elbow, and from this place the rancho of San Francisquito runs northerly.

Ques. How far south of the base line is the old road to the Puente?
Ans. One league, according to the map in the expediente, plus a half a mile, from my own knowledge.

Re-examined.

Ques.
Taken in open court, Sept. 17, 1855.

C. E. CARR, *Cl'k.*

Filed Sept. 17th, 1855.

C. E. CARR, *Cl'k.*

District Court for the southern district of California.

THE UNITED STATES, Appellants,
vs.
HENRY DALTON, Appellee.

This case coming on to be heard at the regular December term of the court, at the city of Los Angeles, on an appeal from the final decision of the commission to ascertain and settle private land claims in the State of California, under an act of Congress passed on the 3d of March, 1851, on a transcript of the proceedings and decision, and the papers and evidence on which said decision was founded, and upon further evidence taken before this court, and it appearing to the court that said transcript has been duly filed according to law, and counsel for both parties having been heard, it is ordered, adjudged and decreed, that the said decision of the said commission be, and the same is hereby reversed; and it is further ordered, adjudged and decreed, that the claim of the appellee be and the same is hereby rejected.

(Signed) ISAAC J. K. OGIER,
U. S. Dist. Judge for the south dist. California.

Filed December 3d, 1855.
(Signed) C. E. CARR, *Clerk.*

Appellee's Exceptions.

In the District Court of the United States for the southern district of California.

HENRY DALTON, Appellee, ads. THE UNITED STATES, Appellants. Case No. 22. "San Francisquito."

December Term, 1855.

Upon the trial of this cause, the United States district attorney offered to prove by Daniel Sexton and J. S. Mallard, witnesses called on the part of the United States, that Henry Dalton, the appellee in this case, was not at the time of the grant of the land to him in this case a citizen of Mexico, but was an alien and a subject of Great Britain, which proof was objected to by J. R. Scott, counsel for appellee, but his honor, the judge, overruled the objection and permitted the evidence

to be given, to which the appellee, by his counsel, excepted, and prays the court to sign this his bill of exceptions, and make the same part of the record in the case, which is accordingly done.

(Signed) ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed Feb'y 25th, 1856.
(Signed) C. E. CARR, *Clerk.*

Motion for Appeal.

In the United States District Court southern district of California.

HENRY DALTON, Appellee, ads. THE UNITED STATES, Appellants. } Case No. 22. "San Francisquito."

And now comes the above named appellee, by Jonathan R. Scott, his attorney, and moves the court to grant an appeal to the Supreme Court of the United States from the decision rendered in this court in the above entitled cause on the 3d day of December, 1855.

(Signed) J. R. SCOTT,
Attorney for Claimant.

Filed Feb'y 25th, 1856.
(Signed) C. E. CARR, *Clerk.*

Order of Appeal.

In the United States District Court southern district of California.

HENRY DALTON, Appellee, ads. THE UNITED STATES, Appellants. } Case No. 22.—Transcript 331, "San Francisquito."

On motion of Jonathan R. Scott, attorney for the above named appellee, it is ordered, that an appeal be granted said appellee to the Supreme Court of the United States from the judgment rendered in the above entitled cause. December 3d, 1855.

Filed Feb'y 25th, 1856.
(Signed) C. E. CARR, *Clerk.*

In the District Court of the United States southern district of California.

HENRY DALTON, Appellee, ads. THE UNITED STATES, Appellants. } Case 22. "San Francisquito."

Know all men by these presents, that we, Henry Dalton, as principal, and Jonathan R. Scott, as surety, are jointly and severally held and firmly bound unto the United States of America, in the just and full sum of two hundred dollars, for the payment whereof well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents.

The condition of this obligation is this: Whereas the said principal has appealed to the Supreme Court of the United States from the final

decision rendered in the district court of the United States for the southern district of California, in a certain cause above entitled.

Now, therefore, if the said Henry Dalton shall well and truly pay all costs that may be adjudged against him on the said appeal by the said Supreme Court, then this obligation to be void, otherwise to remain in full force and virtue.

In witness whereof, we have hereunto set our hands and seals, at the city of Los Angeles, California, on this sixth day of March, A. D. 1856.

(Signed) HENRY DALTON, [SEAL.]
J. R. SCOTT. [SEAL.]

STATE OF CALIFORNIA,
County of Los Angeles, ss.

Jonathan R. Scott being duly sworn, deposes and says, that he is the surety on the foregoing bond; that he is a resident of the city of Los Angeles, California, and is worth the sum of two hundred dollars over and above all his just debts and liabilities, exclusive of property exempt from execution.

(Signed) J. R. SCOTT.

Sworn to and subscribed before me, this sixth day of March, A. D. 1856.

(Signed) C. E. CARR, *U. S. Com'r.*

Approved:

(Signed) ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed March 6th, 1856.

(Signed) C. E. CARR, *Clerk*,
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing 38 pages, numbered from 1 to 38, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings and of the decision of said court, and the papers and evidence on which said decision was founded, on file in my office, in case No. 22 on the docket of said court, wherein Henry Dalton is the appellee, and the United States are the appellants, for the place called "San Francisquito."

In testimony whereof, I have hereunto set my hand and affixed the [L. S.] seal of said court, at Los Angeles, California, this 4th day of June, A. D. 1856.

C. E. CARR, *Clerk*,
By O. MORGAN, *Dep'y.*

Filed 18th April, 1857.